THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.Nos.15747, 17488 & 17496 of 2006

COMMON ORDER:

In all these writ petitions, common questions of law and fact arise and therefore, they are being disposed of by this common order. In all these writ petitions, petitioner and first respondent are one and the same.

It appears, first respondent stood as guarantor for the loans availed by one Karim Abdul Sultan Mandani. As the said Karim Abdul Sultan Mandani did not repay the loan amount, proceedings under Section 70 of the A.P. Cooperative Societies Act, 1964 (for short 'the Act') were taken up against the said person and first respondent and accordingly a Certificate under Section 71(1) of the Act was issued in favour of the petitioner society. Aggrieved by the same, first respondent carried the matter in appeal before the A.P. Cooperative Tribunal, Warangal being C.T.A.Nos.57/03, 58/03 and 5/04. The Cooperative Tribunal by order dated 15.5.2006 allowed all the three appeals by setting aside the Certificate issued under Section 71(1) of the Act in favour of petitioner society. Aggrieved by the same, the present writ petitions are filed by the petitioner society.

There is no necessity of going into all the details. The only ground on which the Certificate under Section 71(1) of the Act was set aside is that no enquiry as required under Section 71 of the Act was conducted by the Certifying Authority. It was found by the Cooperative Tribunal that except filling the blanks of the proforma certificate, no enquiry has been conducted and no findings as required under law were recorded.

May be, notices are issued as asserted by the learned counsel for petitioner, but that does not mean that merits and demerits of the contentions of each party should not be recorded. It is obligatory on the part of the certifying authority to conduct a detailed enquiry as required under law and issue certificate. In this case, except issuing certificate by filling the

proforma, nothing has been done by the certifying officer. Therefore, the Tribunal below has not committed any error in setting aside the Certificate issued under Section 71 of the Act. But, the Tribunal once having found that no enquiry as contemplated under law was conducted, ought to have remanded the matter to the primary authority for the purpose of conducting a detailed enquiry as required under Section 71 of the Act for the purpose of issuing Certificate. The Certificate itself was set aside leaving no scope for the petitioner society to work out its remedies as available under law.

In view of the above, the orders of the A.P. Cooperative Tribunal, Warangal made in O.A.Nos.57/03, 58/03 and 5/04 dated 15.5.2006 are modified to be read as under:

The appeals bearing O.A.Nos.57/03, 58/03 and 5/04 are allowed setting aside the Certificate issued by the Deputy Registrar of Cooperative Societies, Warangal and the consequential proceedings in pursuance to the impugned certificate shall stand annulled. The matters are remitted to the primary authority for conducting fresh enquiry into the matter, as required under law. The primary authority shall complete the enquiry within a period of six weeks after putting all the parties on notice and hearing them.

Accordingly, the writ petitions are allowed. No order as to costs.

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C.V.RAMULU, J

Date: 22.11.2006
DA

THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.Nos.15747, 17488 & 17496 of 2006

22.11.2006

IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.Nos.15747, 17488 & 17496 of 2006

Date: 22nd November, 2006

Between:

Jubilee Cooperative Credit Society Ltd.,
Khoja Mohalla, Warangal, rep. by its
Manager K.Shyam Sunder Rao. .. Petitioners in all the W.Ps.

And

Smt.Yasmin Ali Nasir Punjani
and another.

.. Respondents in all the W.Ps.